IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 5854 of 2007

KHEM CHAND
V/S
STATE & ORS.

Mr. RANJEET JOSHI, for the appellant / petitioner

Date of Order : 25.9.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

By the impugned order learned trial court has dismissed petitioner's application filed for amendment of the written statement, which was filed on the ground that new Rent Control Act has come into force in the township of Makrana since 11.1.2006, and therefore, the jurisdiction to decide the dispute between tenant and landlord vests exclusivly with the Rent Control Tribunal, and therefore, the suit as filed is required to be dismissed as not maintainable.

The application was opposed on the ground that the Act is not applicable in Makrana Municipal area, and therefore, the amendment is not required. Learned trial court has found that new Rent Control Act has not become applicable in the town of Makrana, and it has then been

held that present suit is at the stage of final arguments, and in case the amendment in the written statement is allowed it will unnecessarilty delay the proceedings.

May be that the reasoning given by the learned trial Court may not be sustainable, as, if the new Rent Control Act applies, the non-obstante clause incorporated in Section 9 does apply, but then, here the thing is, that the new Rent Control Act has not been made applicable to Makrana.

Much was sought to be argued, that there has been amendment in the new Rent Control Act, 2001, being Rajasthan Rent Control (Second Amendment) Act, 2005, whereby in sub-section (2) of Section 1, the expression "having a population exceeding fifty thousand as per 1991 Census" has been deleted, and this amendment has been brought into effect vide notification dated 20.2.2006, with immediate effect, and therefore, since the requirement of fifty thousand population has been deleted, the Rent Control Act, 2001 obviously becomes applicable to the Makrana municipal area as well.

I am afraid that that is not correct interpretation of the provisions of Section 1(2).

For ready reference, I may quote the provisions of

sub-section (2) of Section 1 of the Act of 2001, which read as under:

> "(2) It shall extend in first instance to such of the municipal areas which are comprising the District Headquarters in the State and later on to such of the other municipal areas having a population exceeding fifty thousand as per 1991 Census as the State Government may, by notification in the Official Gazette, specify from time to time."

From out of the above provision, after deletion of the words deleted by Second Amendment Act, the remaining part of sub-section (2) would read as under:

> "(2) It shall extend in first instance to such of the municipal areas which are comprising the District Headquarters in the State and later on to such of the other municipal areas as the State Government may, by notification in the Official Gazette, specify from time to time."

In my view, thus, on the reading of the consequently amended sub-section (2) also, it cannot be said that the Act is applicable to the municipal area of Makrana, in absence of any notification, published in Official Gazette, specifying the Act to have become applicable to this area. In that view of the matter, though for different reason, I do not find any sufficient ground to interfere with the impugned order.

The writ petition is, therefore, dismissed summarily.

(N P GUPTA),J.

/Sushil/